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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/726,432

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Kemal Guler

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10/20/2006

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EXAMINER

DUNHAM, JASON B

ART UNIT

PAPER NUMBER

3625

DATE MAILED: 10/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/726,432	Applicant(s) GULER ET AL.	
	Examiner Jason B. Dunham	Art Unit 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-5,8-11,13,15-17 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-5,8-11,13,15-17 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Claims 3-4,8-9,13,15-17, and 20 have been amended and claims 1-2,6-7,12,14, and 18-19 have been canceled in applicant's response filed August 3, 2006. Applicant's remarks concerning the previous objection to the drawings are persuasive and the drawings filed December 3, 2003 have been accepted. The cancellation of claims 1-2,12, and 14 have rendered the previous Section 112 rejection moot and applicant's remarks concerning the rejection of claims 3-5,13, and 15-17 under Section 112 are persuasive. The previous Section 112 rejection has been vacated.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 3-5,8-11,13,15-17 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Hammond (U.S. Patent Application Publication No. 2002/0082977).

Referring to claim 3. Hammond discloses a method comprising:

- Providing information regarding an online auction to a computer system (Hammond: figure 1); and

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- Predicting, by a software program executing on the computer system, an auction outcome for each of a plurality of potential feedback rules for the online auction by ranking, by the software program, each of the plurality of potential feedback rules based on the predicted outcomes (Hammond: paragraphs 14,59,117 & 122-136); and
- Providing the ranking to auction end-user (Hammond: paragraph 14).
- Allowing an auction end-user to select a feedback rule to implement from the plurality of potential feedback rules based on the predicted auction outcomes (Hammond: paragraph 100 & figure 4).

Referring to claim 4. Hammond further discloses a method wherein predicting comprises modeling an outcome for each of the plurality of potential feedback rules (Hammond: abstract).

Referring to claim 5. Hammond further discloses a method wherein modeling the outcome for each of the plurality of potential feedback rules comprises calculating a statistical distribution of possible outcomes for each of the plurality of potential feedback rules (Hammond: abstract).

Referring to claims 8-9. Claims 8-9 are rejected under the same rationale set forth. Hammond further discloses a system wherein the processor, executing the auction program, selects one of the plurality of feedback rules to implement based on the predicted auction outcomes (Hammond: abstract, figures 1 and 5, and paragraphs 122-136).

Referring to claim 10. Hammond further discloses a system wherein the processor predicts a final outcome for each of the plurality of feedback rules (Hammond: paragraph 59).

Referring to claim 11. Claim 11 is rejected under the same rationale set forth above.

Referring to claim 13. Hammond further discloses a computer readable media storing instructions executable by a computer system, and when executed the instructions implement a method comprising:

- Accepting parameters of an online auction from an auction end-user (Hammond: paragraphs 59 & 78);
- Modeling, for each of a plurality of feedback rules, an auction outcome using, at least in part, the parameters supplied by the auction end-user (Hammond: abstract & paragraphs 59 & 78); and
- Holding an online auction based on the parameters of the online auction and using one of the plurality of feedback rules selected based on the modeling and selected by the instructions executed by the computer program based on the modeling (Hammond: abstract, figures 1 & 5, paragraphs 122-136).

Referring to claims 15-17 and 20. Claims 15-17 and 20 are rejected under the same rationale set forth above.

Response to Arguments

Applicant's arguments filed August 3, 2006 have been fully considered but they are not persuasive.

In response to applicant's argument that Hammond does not disclose, "ranking...outcomes" as recited in claim 3 because Hammond is directed towards selecting auctions from which to delist an item, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. While one embodiment of Hammond contemplates using the ranking to delist items, paragraphs 14 and 128-136 still anticipate claim 3 as Hammond is capable of performing the intended use. Claims 4-5 are rejected under the same rationale, the examiner notes that applicant incorrectly noted that claim 4 depends on claim 5, while it depends on claim 3 according to the amended listing of the claims.

Regarding claim 8, applicant argues that Hammond does not disclose a system wherein the processor selects one of the feedback rules to implement because the seller is the entity that chooses the rules. The examiner notes figure 5 and paragraph 125 of Hammond disclosing, "the method is performed automatically by the system, which **can** include the seller". Clearly, Hammond anticipates a system selecting one of the feedback rules to implement independent of the seller. Claims 9-11 are rejected under the same rationale.

Applicant's argument against claims 13,15-17, and 20 are rejected under the same rationale set forth in the argument regarding claim 8.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason B. Dunham whose telephone number is 571-272-8109. The examiner can normally be reached on M-F, 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JBD
Patent Examiner
10/10/06



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